

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM)	AMENDED NOTICE AND
2.21.1801, 2.21.1802, 2.21.1803,)	EXTENSION OF COMMENT
2.21.1811, 2.21.1812, and 2.21.1831)	PERIOD ON PROPOSED REPEAL
pertaining to exempt compensatory)	
time policy)	

TO: All Concerned Persons

1. On April 15, 2010, the Department of Administration published MAR Notice No. 2-21-430 regarding the proposed repeal of the above-stated rules at page 811 of the 2010 Montana Administrative Register, Issue Number 7. On May 14, 2010, at 11:30 a.m., the Department of Administration held a public hearing to consider the proposed repeal of the above-stated rules. The department received written comments regarding the sufficiency of the statement of reasonable necessity. As a result, the statement of reasonable necessity is amended and the comment period is extended.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on June 17, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

STATEMENT OF REASONABLE NECESSITY: The rules proposed to be repealed concern only the internal management of state government and do not affect the public. Therefore, the rules are not appropriately included in ARM, according to the definition of "rule" in 2-4-102(11)(b)(i), MCA. The exempt compensatory time policy rules, which include all of the rules proposed to be repealed by this notice, concern only the internal management of state government because the policy affects state employees and not the private rights or procedures available to the public. The DOA has determined that the exempt compensatory time policy is consistent with the type of information not included within the definition of rules as defined in Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from the Administrative Rules of Montana (ARM) as part of its review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised exempt compensatory time policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcp>. When this policy is amended in the future, notice will be posted on the MINE web page, an internal site for state employees.

3. Concerned persons may submit their data, views, or arguments in writing to: Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., June 25, 2010.

4. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State June 1, 2010.